

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DANIEL J. CARLSEN and GEORGE F. PARKER

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Appeal No. 2000-0816  
Application No. 08/938,875

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ON BRIEF

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Before CALVERT, PATE and STAAB, Administrative Patent Judges.  
PATE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the examiner's refusal to allow claims 1, 4-7, 10-14, 17-20, 23-26, 29-33, 36-39, 42-45, 48-52, 55-57, 60-63, 66-70, 73-75, 81, 82, 85, 88 and 89. All independent claims except independent claim 33 have been amended after the claims were last rejected and the Notice of Appeal filed. Claims 2, 3, 8, 9, 15, 16, 21, 22, 27, 28, 34, 35, 40, 41, 46, 47, 53, 54, 58, 59, 64, 65, 71, 72, 76-80, 83,

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84, 86, 87 and 90-107 have been canceled. These are all of the claims in the application.

The claimed invention is directed to an improvement in a saw tooth profile for saw blades. The disclosed teeth have their front or leading faces and their rear or trailing faces formed by opposite leading radius gullets. The gullets are beveled toward opposite sides of the blade. The curved cutting edge is formed on the front edge of each tooth by the intersection of the leading face and a planar surface on the side of each tooth. The planar surface is generally parallel to the beveled gullet of the trailing face of the tooth.

Claim 1, a copy of which is appended to the brief, is further illustrative of the claimed subject matter.

The references of record relied upon by the examiner as evidence of obviousness are:

Suisse 1880	229,772	Jul. 6,
Chaconas 1, 1987	4,690,024	Sep.
Lucki et al. (Lucki) 1991	5,018,421	May 28,
Ohlsson (Canadian Patent) 1966	741,598	Aug. 30,

THE REJECTIONS

Claims 1, 4-6, 20, 23-25, 39, 42-44, 57, 60-62, 75 and 81 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Suisse in view of Ohlsson.

Claims 7, 10-13, 26, 29-32, 45, 48-51, 63, 66-69, 82, 85, 88 and 89 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Suisse in view of Ohlsson and further in view of Lucki.

Claims 14, 17-19, 33, 36-38, 52, 55-56, 70 and 73-74 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Suisse in view of Chaconas and further in view of Ohlsson.

Appellant includes a statement in his brief that all rejected claims will stand or fall together. Accordingly, we like appellant, will limit our consideration to independent claim 1 on appeal.

OPINION

We have carefully reviewed the rejections on appeal in light of the arguments of the appellant and the examiner. As a result of this review, we have determined that the applied prior art does not establish a prima facie case of obviousness with respect to the claimed subject matter on appeal.

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Accordingly, we will reverse the rejections on appeal. Our reasons follow.

Appellant is in apparent agreement with examiner's findings of fact with respect to the disclosure of the Suisse reference. Suisse discloses a saw blade having a first gullet at a first inclined angle to form a leading face of a tooth and a second gullet at a second inclined angle to form a trailing face of the tooth. Suisse further includes a planar surface at a third (different from the second) angle to form a cutting edge on the leading face of the tooth. Appellant agrees with the examiner's finding that such a construction forms a cutting edge having a negative rake angle on the leading face of the tooth. Thus, the difference between Suisse and the claimed subject matter is that the planar surface forms a cutting edge having a negative rake angle rather than the claimed positive rake angle of appellant's subject matter on appeal.

Appellant also appears to be in agreement with the examiner, that the reference to Ohlsson discloses a cutting tooth on a saw with the leading edge provided with a positive rake angle. In view of these findings of fact, the examiner

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states that it would have been obvious to use a positive rake angle on the leading surface of the Suisse tooth for the purpose of getting a smoother cut as Ohlsson discloses.

In further explaining the rejection, the examiner states that the Suisse reference does, in fact, disclose a planar beveled surface that is "generally parallel" with the inclined angle of the second beveled gullet. The examiner is apparently of the opinion that "generally" is a term of degree which broadens the possible angle of the planar surface that would infringe the subject matter of claim 1. Thus, the examiner states that Suisse meets the limitation of claim 1 that the beveled planar surface is generally parallel to the gullet on the trailing edge of the tooth. The examiner then goes on to state that his posited combination of references merely needs to change the leading edge of the tooth by the addition of a positive rake angle.

It is this argument of the examiner that convinces us that the appellant is correct when he states that the rejection of claim 1 based on Suisse and Ohlsson is buttressed on impermissible hindsight. In the examiner's combination of references, the examiner is relying on the generally planar

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surface of Suisse as being generally parallel to the second beveled gullet, while at the same time stating that this planar surface must still be modified in some manner to achieve the positive rake angle that Ohlsson finds beneficial. It is this picking and choosing of features from the individual references that is the hallmark of impermissible hindsight. In the examiner's combination of references, the generally planar surface of Suisse must be maintained to be generally parallel to the second beveled gullet while at the same time this generally planar surface must be changed to form the positive rake angle. We agree with the appellant that the examiner is using the claimed invention as an instruction map to piece together the teachings of the prior art. Consequently, we can not agree that the prima facie case of obviousness tendered by the examiner rest on a well-founded evidentiary basis.

We have further considered the patents of Lucki and Chaconas, but we find therein no teachings or suggestion that would remedy the difficulties we have found in the rejection based on Suisse and Ohlsson taken together. Accordingly, we reverse the rejections of all claims on appeal.

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REVERSED

IAN A. CALVERT	)	
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
WILLIAM F. PATE, III	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
LAWRENCE J. STAAB	)	
Administrative Patent Judge	)	

WFP/gjh

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HARNESS, DICKY AND PIERCE  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303



***GJH***

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APJ PATE

APJ CALVERT

APJ STAAB

REVERSED

September 13, 2002